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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

HUAWEI TECHNOLOGIES CO., LTD., et al.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD., et al.,

Defendant.

CASE NO. 16-cv-02787-WHO

**SAMSUNG'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF SAMSUNG'S
OPPOSITION TO HUAWEI'S
MOTION TO PRECLUDE
SAMSUNG'S FRAND EXPERTS
FROM OFFERING IMPROPER
LEGAL OPINIONS**

SAMSUNG ELECTRONICS CO., LTD. &
SAMSUNG ELECTRONICS AMERICA, INC.

Counterclaim-Plaintiffs,

v.

HUAWEI TECHNOLOGIES CO., LTD.,
HUAWEI DEVICE USA, INC., HUAWEI
TECHNOLOGIES USA, INC., & HISILICON
TECHNOLOGIES CO., LTD.

Counterclaim-Defendants.

Pursuant to Civil L.R. 7-11 and 79-5, Defendants and Counterclaim-Plaintiffs Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., and Defendant Samsung Research America, Inc. (collectively “Samsung”) bring this administrative motion to file under seal portions of Samsung’s Opposition to Huawei’s Motion to Preclude Samsung’s FRAND Experts From Offering Improper Legal Opinions (“Opposition”). Samsung certifies that it has reviewed and complied with Judge Orrick’s Standing Order on Administrative Motions to File Under Seal, as well as Civil L.R. 79-5.

Samsung requests an order granting its motion to file under seal the materials in the following table:

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality	Basis for Sealing
Opposition	Blue highlighted portions at lines: 8:15-12:20	Samsung	Declaration of Jocelyn Ma in Support of the Administrative Motion to File Under Seal (“Ma Decl.”) ¶ 4
Opposition	Yellow highlighted portions at lines: 13:18-24	Huawei	Ma Decl. ¶ 8
Exhibit 2	Entire document	Samsung	Ma Decl. ¶ 4
Exhibit 3	Entire document	Samsung	Ma Decl. ¶ 4
Exhibit 4	Entire document	Huawei	Ma Decl. ¶ 8

All of the materials identified above for which Samsung is the party claiming confidentiality contain or reference information that Samsung has designated as “Highly Confidential – Attorneys’ Eyes Only” because it is confidential, nonpublic, and competitively sensitive in nature. *See* Ma Decl. ¶ 4. For convenience of the Court, material in Samsung’s Opposition over which Samsung maintains a claim of confidentiality is highlighted in blue and material over which Huawei maintains a claim of confidentiality is highlighted in yellow.

Dispositive motions and related materials may be sealed in the Ninth Circuit upon a showing that there are “compelling reasons” to seal the information. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006). A party has “compelling reasons” to seal

1 information in a filing when disclosure of that information would “release trade secrets,” *Kamakana*,
2 447 F.3d at 1179, or when the material would disclose “sources of business information that might
3 harm a litigant’s competitive standing.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).
4 In this District, Civil L.R. 79-5(b) requires that the party moving to seal “establish[] that the
5 document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to
6 protection under the law” and that the corresponding motion to seal “be narrowly tailored to seek
7 sealing only of sealable material.”

8 Samsung seeks to seal two categories of information: (1) excerpts of an expert report with
9 information about and analysis of the parties’ negotiations positions, correspondence, and strategy,
10 which this Court has already held are sealable under the “compelling reasons” standard, *see* Dkt.
11 270 at 3 (granting sealing because “information regarding [parties’] license negotiations” discloses
12 “sources of business information that might harm a litigant’s competitive standing”), and (2)
13 material that Huawei has designated Highly Confidential – Attorneys’ Eyes Only pursuant to the
14 protective order. Public disclosure of the first category of information would harm Samsung’s
15 competitive standing by giving asymmetrical information about Samsung’s licensing strategies to
16 other business entities. *See* Ma Decl. ¶¶ 4-5. Huawei may also claim confidentiality over its
17 negotiating strategies and positions for similar reasons. Samsung expects that Huawei will file
18 declarations supporting sealing of its negotiating positions and information, as well as discovery it
19 has asserted is highly confidential. Samsung therefore respectfully requests that the Court order
20 sealed the materials identified above.

1 DATED: July 17, 2018

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